

# SENATE BILL 363

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CF 0lr1687

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By: **Senators Astle and Simonaire**

Introduced and read first time: January 28, 2010

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Use of Coal Combustion By–Products for Reclamation – Bond**  
3 **Requirements**

4 FOR the purpose of requiring the Department of the Environment to require a bond in  
5 a certain amount for a permit that authorizes the use of coal combustion  
6 by–products for reclamation; and generally relating to bond requirements for  
7 permits authorizing the use of coal combustion by–products for reclamation.

8 BY repealing and reenacting, with amendments,  
9 Article – Environment  
10 Section 15–823  
11 Annotated Code of Maryland  
12 (2007 Replacement Volume and 2009 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Environment**

16 15–823.

17 (a) After receiving notification from the Department that the application for  
18 a permit has been approved, but prior to commencing mining, the applicant shall file  
19 with the Department a bond for each mining operation, on a form to be prescribed and  
20 furnished by the Department, payable to the State and conditioned that the operator  
21 will perform faithfully all the requirements of this subtitle.

22 (b) The amount of the bond required shall be for a maximum of \$1,250 per  
23 acre based on the number of acres of affected land covered by the permit. But, a bond  
24 may not be filed for less than \$8,000. However, the Department shall determine  
25 whether the total bond fee is unreasonable and excessive for a particular tract of land

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 and whether a lesser total amount for the bond is sufficient to cover reclamation. In  
2 making this determination, the Department shall consider the size of the operation,  
3 the amount of land to be mined, the acreage that is unreclaimed at any one time, the  
4 proposed method of regrading and revegetation of the site, the proposed use of the  
5 land following reclamation, and any other relevant factors.

6 **(C) (1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, FOR A**  
7 **PERMIT THAT AUTHORIZES THE USE OF ANY COAL COMBUSTION BY-PRODUCT**  
8 **FOR RECLAMATION, THE DEPARTMENT SHALL REQUIRE A BOND IN AN AMOUNT**  
9 **SUFFICIENT TO ENSURE COMPLIANCE WITH APPLICABLE STATE AND FEDERAL**  
10 **LAWS.**

11 **(2) THE AMOUNT OF THE BOND REQUIRED UNDER PARAGRAPH**  
12 **(1) OF THIS SUBSECTION SHALL BE FOR A MAXIMUM OF \$7,500 PER ACRE BASED**  
13 **ON THE NUMBER OF ACRES OF AFFECTED LAND COVERED BY THE PERMIT.**

14 **[(c)] (D)** Liability under the bond shall be for the duration of the mining  
15 permit and for a period of five years after its expiration, unless previously released in  
16 whole or in part, as provided in § 15-824 of this subtitle.

17 **[(d)] (E)** The bond shall be executed by the permittee and corporate surety  
18 licensed to do business in the State. In lieu of a corporate surety, one of the following  
19 shall be acceptable:

20 (1) Deposits of cash or negotiable bonds of the United States  
21 government. The cash deposit or market value of the securities shall be equal at least  
22 to the required sum of the bond. The Department, on receipt of any deposit of cash or  
23 securities, immediately shall forward it to the State Treasurer, who shall receive and  
24 hold the bond in the name of the State, in trust, for the purposes for which the deposit  
25 is made. The State Treasurer at all times is responsible for the custody and  
26 safekeeping of these deposits. The permittee making the deposit may demand and  
27 receive from the State Treasurer the whole or any portion of any securities so  
28 deposited, on depositing with the State Treasurer other negotiable securities of the  
29 classes specified in this section having a market value at least equal to the sum of the  
30 bond;

31 (2) A certificate of deposit if it is equivalent to the required bond,  
32 issued by a bank physically located in the State or that otherwise subjects itself to the  
33 jurisdiction of the U.S. District Court for the District of Maryland, and accompanied by  
34 written agreement of the bank to pay on demand to the State in event of forfeit; or

35 (3) An irrevocable letter of credit if it is equivalent to the required  
36 bond, issued by a bank physically located in the State or that otherwise subjects itself  
37 to the jurisdiction of the U.S. District Court for the District of Maryland, and expressly  
38 states that the total sum is guaranteed to be available, and payable directly to the  
39 State on demand for the surface mining and reclamation.

1           **[(e)] (F)**       A bond or other security filed as above shall contain a provision  
2 that it cannot be canceled by the surety, bank, or other issuing entity, except after not  
3 less than 90 days written notice to the Department and to the permittee. At least 45  
4 days prior to the cancellation date indicated in the notice, the permittee shall file with  
5 the Department a commitment from a surety, bank, or other issuing entity, to provide  
6 a substitute bond or other security which will be effective on the cancellation date  
7 indicated in the notice.

8           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2010.